IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1369 of 1988
with

CIVIL APPLICATION No 1636 OF 2002
in
CIVIL REVISION APPLICATION NO 1369 of 1988

with

CIVIL APPLICATION No 12922 od 2001
in
CIVIL REVISION APPLICATION No 1369 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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WADHUMAL T HIRANI
Versus
INDRAVADAN N PATEL

Appearance:
MRS MONALI M BHATT for
MR RP BHATT for Petitioner No. 1
..... for Petitioner No. 2-3
MR NK MAJMUDAR for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 20/08/2002

C.A.V. JUDGEMENT

1. Wadhumal T.Hirani and others, petitioners have filed this revision application under Sec.29 of the Bombay Rent Act, challenging the judgment and decree dated 30th August, 1988, passed by the Second Joint District Judge, Vadodara, in Regular Civil Appeal No. 417 of 1981. The learned Appellate Judge by his judgment and decree pleased to allow the appeal and pleased to set aside the judgment and decree passed by learned Second Additional Judge, Small Cause Court, Vadodara, dated 31st July 1991, in Rent Suit No.3369/75 filed by Indravadan Natvarlal Patel respondent landlord herein.

2. The facts giving rise to this revision application are as under:-

2.1 There is a premises namely suit shop bearing Tika No.`A' - 14/7, Survey No.26 on the ground floor bearing Municipal Census No. Va/5726 situated on Gendigate Road at Vadodara (which will hereinafter described as `the suit premises'). The suit shop is occupied by petitioner No.1 - defendant No.1 as a tenant for the purpose of his business in the name of M/s.Kishumal Wadhumal since 1949. According to the opponent - original plaintiff, the suit shop belonged to his ancestors but had gone to the share of the parents of the plaintiff in the family partition. After the death of his mother his father executed one will on 21.5.71 and by this will the suit premises was given exclusively to the plaintiff. The plaintiff's father thereafter died on 13.9.1971 since then the plaintiff has become sole owner of the suit premises on the basis of the will of the parents.

2.2 The plaintiff filed rent suit No.3369/75 on 21.9.75 against defendants no.1 and 2 for eviction on the ground of bonafide requirement of the suit property for the use of the plaintiff.

2.3 It is averred in the plaint that defendant No.1 Wadhumal T.Hirani had hired the suit shop on his personal name and suit shop is being used for the business of the firm of defendant No.2 and hence defendant no.2 is joined as a party-defendant in the suit.

2.4 It is averred that the standard rent of the suit shop is Rs.75/- per month and the month of tenancy is as per English Calendar month i.e. it begins from the first

day of every English Calendar month and ends on the last day of the same month. It is then averred that the defendant no.1 is bound to tender the rent regularly to the plaintiff and that the defendant is the statutory tenant of the plaintiff. It is the say of the plaintiff that the suit shop is being hired by the defendants for their own wholesale business.

2.5 It is further averred in the plaint that the children of the plaintiff have grown up and the son of the plaintiff is taking experience of the Automobiles spare parts after completing studies whereas the present plaintiff is in Government service but the plaintiff is about to retire in the near future and the health and physique of the plaintiff is completely sound. It is then alleged that after the retirement of the plaintiff, he also intends to join the proposed business and his son Atul intends to start immediate business in the suit shop which is now being occupied by the defendant no.1 for his own personal use and occupation reasonably and bonafide.

2.6 It was further stated that after the defendant vacated the suit shop it is not to be let out to any one by the plaintiff. It was further stated that the defendant is only making use of the suit shop as a sales office in particular whereas the actual stock of the sugar is being stored in the godown hired by the defendant at several places in the city of Baroda. It was further stated that if the defendant is made to evict from the suit shop he is not going to suffer any sort of hardship because the construction activity is going on with great magnitude in the city of Baroda and even many new shops are being constructed but even then the defendant are not thinking of the hardships of the plaintiff and hence the present suit is required to be filed.

2.7 On the above averments the plaintiff has prayed that a decree for possession of the suit shop mentioned in plaint para.1 be passed in favour of the plaintiff against the defendants with mesne profits till delivery of possession and costs of the suit.

3. The suit was resisted by defendants-tenants on several grounds by filing written statement at Exh.14 and has opposed the plaintiff's suit. The defendants denied that, in the family partition, the suit property had gone to the share of the parents of the plaintiff and the other allegations made in that connection by the plaintiff in para 1 of the plaint. The defendants also denied and pleaded ignorance about the alleged will said

to have been executed by the father of the plaintiff on 21.5.70. The defendant No.1 also denied that after the death of the father of the plaintiff, the plaintiff alone has become the sole owner of the suit property. The defendant has admitted that the standard rent of the suit shop is fixed at Rs.75/- per month.

3.1 The defendants have further contended that the suit shop is taken on lease from the very beginning for the business of the firm of defendant no.2 from the plaintiff and that the defendants are the contractual tenants of the plaintiff. The defendants have further denied that the allegations made by the plaintiff in plaint para 4 including the alleged requirement of the plaintiff that the suit shop for his own for use and occupation and for the use and occupation of his own for starting the proposed business of Automobile spare parts as alleged and therefore the defendants contended that the alleged requirement of the plaintiff is neither bonafide nor reasonable.

3.2 The defendants have also denied that they will not suffer any hardship or inconvenience if they are made to evict from the suit shop as alleged by the plaintiff. It was further contended by the defendants that they are carrying on their business in the suit shop since last twenty five years and they have acquired good reputation in the business and if they are evicted then their business will be totally ruined and they cannot get other vacant shop similar to the suit shop.

3.3 The defendants have also contended that the other brothers of the plaintiff are also necessary parties to this suit and therefore the plaintiff's suit is bad for non-joinder of necessary parties. It was also contended by the defendants that the suit notice is not legal and valid and their tenancy is not validly terminated by the said suit notice and therefore they contended that the plaintiff is not entitled to get any reliefs of possession as claimed and therefore the plaintiff's suit be dismissed with costs.

4. In view of the aforesaid pleadings, the trial court has framed the necessary issues at Exh.15 in the suit.

4.1 The learned trial Judge by his judgment and decree dated 31st July, 1981, held that plaintiff failed and neglect to prove that plaintiff has bonafide requirement of the suit shop for the use and occupation of himself and his family. As regards greater hardship

is concerned, the learned trial Judge held that the greater hardship would be caused to the defendant if eviction decree is passed or refused but so long as the plaintiff landlord case is concerned, the plaintiff-landlord does not establish his case of bonafide requirement of the premises in question. As regards suit notice is concerned, the same is not decided. The learned trial Judge also held that plaintiff has failed to prove that he became the sole owner of the suit premises. However the learned trial Judge held that the plaintiff is not entitled to recover the possession of the suit premises. The learned trial Judge has considered oral and documentary evidence in this behalf.

5. Being aggrieved and dissatisfied with the aforesaid judgment and decree of the trial court, Indravadan Natvarlal Patel filed Regular Civil Appeal No.4171 of 1981 before the learned Second Jt.District Judge, Vadodara somewhere on 22nd December, 1981. The learned Appellate Judge by his judgment and decree dated 30th August, 1988, allowed the appeal and quash and set aside the judgment and decree of the trial Court in Rent Suit No.3369 of 1975. The learned Appellate Judge held that the lower court has erred in holding that greater hardship would be caused to the defendant by passing the decree than to the plaintiff if the decree is refused. The learned appellate Judge held that on the contrary the greater hardship would be caused to the plaintiff by refusing the decree.

6. Being aggrieved and dissatisfied with the said judgment and decree of the learned appellate Judge, the petitioner original defendants tenant have filed this revision application before this Court somewhere on 18th November, 1988.

7. Mrs.Monali M.Bhatt, learned advocate appeared on behalf of the original petitioner. Before matter was heard, the learned advocate for the petitioners filed civil application No.12922 of 2001 in the main matter in which it has been stated that the learned appellate Judge reversed the judgment and decree of the trial court mainly on the ground of bonafide requirement on the part of the respondent landlord. It was the contention of the respondent landlord that the premises are bonafide required of his son Atul Patel. It has now transpired that Atul Patel has expired on 5th September, 1999. The death certificate issued by the Vadodara Municipal Corporation has been produced on record of the case in this behalf.

8. When the matter was placed for hearing before this Court, this Court issued notice on 20.12.2001 in this behalf. Notice has been served on the respondent landlord and Mr.N.K.Majmudar, learned advocate appears on their behalf. He has also filed Civil Application No.1636 of 2002 in this behalf for which I will make reference at the appropriate stage.

9. Learned advocate for the petitioners has made following submissions:

9.1 As per the deposition on record (page 71) the suit shop is admittedly an ancestral property. On the cut off date i.e. on 1.1.1964 the plaintiff does not have ownership right and at the best was only one of the co-owners. The suit was, therefore, not maintainable on the ground of non-joinder of parties.

9.2 It was further submitted that the lower appellate court decreed the suit on the ground of bonafide requirement of the plaintiff's son. As per the evidence now on record, son of the plaintiff has expired. It was the plaintiff's case that the suit shop was required for his son's business. In view of these changed circumstances, the very ground for eviction does not exist.

9.3 Learned advocate for the petitioners further submitted that the plaintiff wanted to carry on business with his son Atul and therefore this subsequent fact can be considered by this Court in view of the judgment of the Hon'ble Supreme Court in the case of GULABBAI VS. NALIN NARSI VOHRA AND OTHERS REPORTED IN AIR 1991 SC 1760 particularly para 25 which reads as under:

> "On a conspectus of all these decisions rendered by this Court, it is now beyond the pale of any doubt that in appropriate cases events subsequent to the filing of the suit can be taken notice of and can be duly considered provided the same is relevant in determining the question of bona fide requirement."

9.4 Learned advocate for the petitioners has also relied upon the judgment of the Hon'ble Apex Court in the case of VALLAMPATI KALAVATHI Vs. HAJI ISMAIL REPORTED IN AIR 2001 SC 1441 particularly para 12 which reads as under:

> "When the litigation lingers on for years certain

factual developments are not necessarily relevant for adjudication of the case. No doubt, in proceeding for eviction of the tenant on the ground of personal requirement of the landlord sometime subsequent developments may be relevant to be looked into for enabling the authorities to make a fair and proper adjudication of the controversy. While taking note of subsequent developments the authorities/Courts should keep in mind whether such material is relevant and can turn the balance in the case, the controversy should be decided with reference to the pleadings of the parties and the findings placed on record."

9.5 The learned advocate for the petitioners has also relied upon the judgment of the Hon'ble Supreme Court in the case of LEKH RAJ Vs. MUNI LAL AND OTHERS REPORTED IN AIR 2001 SC 996 and also judgment of this Court in the case of JAMNA MANGAJI Vs. VAKTAVARMAL GANGARAM AND OTHERS REPORTED IN 20 GLR 664 particularly para 5 which reads as under:

"It is a settled legal position that a decree under Sec.13(1)(g) of the Rent Act is a personal decree. If a person dies or gets rid of the property, his personal requirement comes to an end."

9.6 In view of the aforesaid decisions of the Hon'ble Supreme Court, the learned advocate for the petitioners has made following submissions:

(1) The lower appellate court decreed the suit on the ground of bonafide requirement of plaintiff now on record plaintiff's son expired.

(2) As per the judgment of the Hon'ble Supreme Court subsequent event are required to be taken into account at the time of deciding the revision application and in support of the same the aforesaid decisions have been relied upon by the learned advocate for the petitioner.

(3) He further submitted that the petitioners are still running the same business and do not have any source of livelihood.

(4) It was further submitted that in cross-examination the landlord admits that he will not start business if he will not get the

possession of the suit premises. It shows the emphasis on the possession of the premises rather than business requirement. No business is started anywhere upto even today.

(5) It was further submitted that the landlord has also open land just behind the shop which he has sold away. The said open land was disposed off by the plaintiff in December 1974 to M/s.M.Ravji & Co. who constructed a commercial complex. If the plaintiff in fact needed the premises for starting any business even for his son, either he would not have disposed off the premises or he could have retained some interest in the premises when constructed by the purchaser.

(6) It was further submitted that even the plaintiff had admitted that there are several shops in the buildings on this road on the first floors where various types of business are carried on, if the landlord was really serious to start the business he had enough space on first floor to start business or to hire a shop nearby as per his evidence so many shops are constructed he has not tried to get one and start business.

(7) It was further submitted that the trial court had rightly appreciated that in this locality the business of Automobile Spare Parts, which was sought to be started by the plaintiff for his son, could not carried out. The trial court had arrived at a finding of fact that the two rooms and the open land available with the plaintiff were sufficient enough for the purpose of carrying on any business by the plaintiff if he intended to do so.

9.7 In this connection Mr.N.K.Majmudar, learned advocate for the landlord has invited my attention to the para 14 and 15 of the judgement and thereafter para 21 the learned appellate Judge has decided the need of his son. It is no doubt true that the father has retired in 1982 but plaintiff's father wanted to carry on the business of his son. In view of that fact the learned appellate court held that the need of the plaintiff is both reasonable and genuine. As the father already retired in 1982 and he wanted to carry on business in all respects the need of plaintiff is genuine and bonafide. In view of the same the learned appellate Judge held that

the requirement of the plaintiff is both bonafide and reasonable in this behalf.

10. Mr. N.K. Majmudar has filed Civil Application No. 1636 of 2002. In this case he has stated that after the proceedings were over due to unfortunate incident of sad demise of the only son of the applicant, the applicant, his daughter-in-law and his grand children are in great difficulty and the applicant is getting pension of Rs. 3089/- per month. The applicant has to maintain himself, his wife, daughter-in-law and his two grand children Rumit and Parth out of the aforesaid meagre amount of pension of Rs. 3,089/- per month. It is submitted that they did not have any other source of income. It is submitted that his family members are residing on the first floor of the suit shop and two rooms are in possession of the applicant. The applicant now requires the suit premises for himself and for his daughter-in-law. Since the applicant has retired from service, he is finding it very much difficult to maintain his family from the aforesaid meagre income of pension. The applicant is 78 years old. In view of these submissions, the learned counsel for the applicant submitted that the subsequent events may be taken on record and thereafter this court may pass order. In support of the same, the learned counsel for the applicant has relied on decision of the Hon'ble Supreme Court in the case of MOHANLAL VS. TRIBHOVAN reported in AIR 1963 SC 358 in which at para 7 on page 361 the Hon'ble Supreme Court has observed thus:-

> "In our opinion, this argument is without any force. If the landlords had obtained an effective decree and had succeeded in ejecting the tenants as a result of that decree, which may have become final between the parties, that decree may not have been reopened and the execution taken thereunder may not have been recalled. But it was during the pendency of the suit at the appellate stage that the second notification was issued cancelling the first. Hence the Court was bound to apply the law as it found on the date of its judgement. hence, there is no question of taking away any vested rights in the landlords. It does not appear that the second notification, cancelling the first notification, had been brought to the notice of the learned Single Judge, who heard and decided the second appeal in the High Court."

10.1 He has also relied on the judgement of the

Hon'ble Supreme Court in the case of .... AIR 1981 SC 1113 particularly para 15.

10.2 He has also relied on the decision of the Hon'ble Supreme Court in the case of RAMESH KUMAR VS. KESHORAM reported in 1992 Supp. (2) SCC 623, JAI MANGAL ORAON VS. MIRA NAYAK (SMT) AND OTHERS reported in (2000) 5 SCC 141 in which on page 149 at para 12 the Hon'ble Supreme Court has held as under:

"We have carefully considered the submissions of the learned counsel appearing on either side. The details relating to some of the subsequent developments brought on record in the shape of the relevant orders passed by the competent authorities disclose a disturbing picture bordering on gross misuse and abuse of process of court involving serious criminal offences too. It is rather surprising that a place where he had to face a factual inquiry the appellant seems to have gone underground to avoid the arms of law taking its course but continue to fight in absentia in this Court. We do not propose to indict the appellant for all such misdeeds ourselves since, law in due course will take care of the situation, as it deserves. Such vital facts now coming to light, which are not only grave and serious but also go to the root of the matter, undermining the very basis of his claims and even locus standi or right to agitate before courts in relation to the property in question, cannot be totally ignored to permit perpetuation of grave injustice and abuse of process of court. Those facts themselves constitute, in our view, sufficient ground to dismiss these appeals. It is by now well settled that even subsequent developments or facts and turn of events coming into existence but found really relevant, genuine and vitally important in effectively deciding the issues raised and necessary to do real, effective and substantial justice or prevent a miscarriage of justice not only can but ought to be taken into consideration by courts even at the appellate stage."

10.3 He has also relied upon the judgment of the Hon'ble Apex Court in the case of Gaya Prasad v. Pradeep Shrivastava reported in 2001 AIR SCW 598. In that case in para 10 and para 11 the Hon'ble Apex Court has observed as under:

"We have no doubt that the crucial date for deciding as to the bona fides of the requirement of the landlord is the date of his application for eviction. The antecedent days may perhaps have utility for him to reach the said crucial date of consideration. If every subsequent development during the post petition period is to be taken into account for judging the bona fides of the requirement pleaded by the landlord there would perhaps be no end so long as the unfortunate situation in our litigative slow process system subsists. During 23 years after the landlord moved for eviction on the ground that his son needed the building, neither the landlord nor his son is expected to remain idle without doing any work, lest, joining any new assignment or starting any new work would be at the peril of forfeiting his requirement to occupy the building. It is a stark reality that the longer is the life of the litigation more would be the number of developments sprouting up during the long interregnum. If a young entrepreneur decides to launch a new enterprise and on that ground he or his father seeks eviction of a tenant from the building, the proposed enterprise would not get faded out by subsequent developments during the traditional lengthy longevity of the litigation. His need may get dusted, patina might stick on its surface, nonetheless the need would remain intact. All that is needed is to erase the patina and see the gloss. It is pernicious, and we may say, unjust to shut the door before an applicant just on the eve of his reaching the finale, after passing through all the previous levels of the litigation, merely on the ground that certain developments occurred pendente lite, because the opposite party succeeded in prolonging the mater for such unduly long period.

We cannot forget that while considering the bonafides of the need of the landlord the crucial date is the date of petition. In Ramesh Kumar v. Kesho Ram, 1992 Suppl (2) SCC 623 : (1992 AIR SCW 336 : AIR 1992 SC 700) a two-Judge Bench of this Court (M.N. Venkatachalia, J., as he then was, and N.M.Kasliwal, J.) pointed out that the normal rule is that rights and obligations of the parties are to be determined as they were when the lis commenced and the only exception is that the Court is not precluded from moulding the

reliefs appropriately in consideration of subsequent events provided such events had an impact on those rights and obligations. What the learned Chief Justice observed there is this (para 4):

"The normal rule is that in any litigation the rights and obligations of the parties are adjudicated upon as they obtain at the commencement of the lis. But this is subject to an exception. Whereever subsequent events of fact or law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the Court is not precluded from taking a `cautious cognizance' of the subsequent changes of fact and law to mould the relief."

10.3(A) In para 12 the Hon'ble Apex Court has considered the judgment in the case of Kamleshwar Prasad v. Pradumanju Agarwal reported in (1997) 4 SCC 413 and in para 13 the Apex Court has held as under:

"Para.13 In our opinion, the subsequent events to overshadow the genuineness of the need must be of such nature and of such a dimension that the need propounded by the petitioning party should have been completely eclipsed by such subsequent events. A three Judge Bench of this Court in Pusupuleti Venkateswarli v. Motor and General Traders, (1975) 1 SCC 770 : (AIR 1975 SC 1409) which pointed to the need for re-moulding the reliefs on the strength of subsequent events affecting the cause of action in the filed of rent control litigation, forewarned that cognizance of such subsequent events should be taken very cautiously. This is what learned Judge of the Bench said then (para 4):

"We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceedings provided the rules of fairness to both sides are scrupulously obeyed."

10.3(B) In para 14 again the Hon'ble Apex Court has

considered the decision in the case of Hasmat Rai v. Raghunath Prasad reported in (1981) 3 SCC 103 and para 16 the Apex Court has considered another judgment in the case of Ansuyaben Kantilal Bhatt v. Rashiklal Manilal Shah reported in (1997) 5 SCC 457 and ultimately in para 17 the Hon'ble Apex Court has held as under:

> "Considering all the aforesaid decisions, we are of the definite view that the subsequent events pleaded and highlighted by the appellant are too insufficient to overshadow the bonafide need concurrently found by the fact finding Courts."

CONCLUSION:

11. I have considered the facts of the case here and considered the trial court judgment and also the appellate court judgment. However, the learned advocate for the appellant has raised additional contentions by way of filing Civil Application No.12922 of 2001. In this application learned advocate submitted that the learned appellate Judge reversed the judgment and decree of the trial court mainly on the ground of bonafide requirement on the part of the respondent landlord. It was contention of the respondent landlord that the premises are bonafide required of his son Atul Patel. It has now transpired that Atul Patel has expired on 5th September, 1999, during the pendency of revision application. The death certificate of Atul Patel issued by the Vadodara Municipal Corporation has been produced on record of the case in this behalf. I have also considered the judgments cited by the learned advocate for the appellant namely Gulabbai (supra), Vallampati Kalavathi (supra), Lekhraj (supra) and the submissions made by him. I have also considered the submissions of Mr.N.K.Majmudar, learned advocate for the respondent and also the judgments of the Hon'ble Supreme Court relied by him in the case of Mohanlal (supra) and Ramesh Kumar (supra).

11.1 Order 41 Rule 27 of the Code of Civil Procedure provides production of additional evidence in appellate stage. Rule 27(aa) provides that parties seeking to produce additional evidence establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the appeal against decree was passed. In this case the appellant desire that an additional circumstances namely death of Atul Patel who has died on

5th September, 1999, that fact may be considered as an additional evidence in this behalf. He submitted that in this case the appellate court passed the decree on 30th August, 1988, at that time the appellant had no knowledge about the said fact and the evidence was not within the knowledge at the relevant time. However, according to him, this fact is very material and a great bearing on the decree obtained by the landlord because one of the contention of the landlord was that premises are bonafide required for the business of his son Atul Patel. In view of the aforesaid facts and circumstances the contention of the tenant is that since main ground now itself does not survive due to change circumstances the revision application filed by the applicant is required to be allowed. On the other hand the landlord has also filed civil application which I have already narrated and he has stated that notwithstanding the fact of death of Atul Patel still the landlord required the premises.

11.2 I have considered the judgments cited by landlord as well as tenant. In this case the appellants-applicants able to prove contention laid down in Clause (aa) of Rule 27. I have also considered Cl.b of Rule 27 which provides that appellate court requires any documents or any witness to be examined to enable to pronounce the judgment or for any other substantial cause. In my view the additional fact regarding death of Atul Patel is an evidence which enable the appellate court to pronounce the judgment and therefore the appellant is able to satisfy both the conditions of clause (aa) and clause (b) of Rule 27. In this case the Court is satisfied about the condition precedent for exercising power under Order 41 Rule 27 of the CPC. The Court is satisfied that additional evidence is required to enable them to pronounce judgment and that will serve the substantial cause of justice.

11.3 Looking to the peculiar facts and circumstances of the case, the defendants - appellants herein are permitted to adduce additional evidence in this behalf. However, so far as further aspect of the matter about need of the premises is concerned which this Court will not be able to appreciate at this stage because of the fact that the landlord's son Atul Patel expired, the landlord may lead to produce some other evidence to see that they still required premises in this behalf. The tenant can prove that with the death of son Atul Patel the need of landlord is disappeared. This is a matter of evidence and, therefore, I remand this matter to the appellate court. The appellate court can take notice of this subsequent event and mold the relief accordingly.

In view of the same, I request the appellate court to allow the landlord and tenant to adduce any other additional evidence in their behalf and decide the matter in accordance with law. Of course, the appellate court will consider the case of the landlord and tenant in accordance with law. Both the landlord and tenant will adduce additional evidence on record to prove their case.

12. In view of the aforesaid observations and directions, this civil revision application stands disposed of accordingly. The judgment and decree dated 30th August, 1988, passed by the learned Joint District Judge, Vadodara, in Regular Civil Appeal No.417/81 is quashed and set aside. However, the learned appellate Judge will allow both landlord and tenant to adduce additional evidence in connection with the need of the premises and thereafter decide the matter in accordance with law. The other evidence which has already been recorded before the trial court will remain as it is. In view of the same, the Civil Applications No.12922 of 2001 and 1636 of 2002 are also disposed of. Rule is discharged. No order as to costs.

(K.M. Mehta, J.)

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